

1 AN ACT concerning provision of telecommunications
2 services.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 5. The Public Utilities Act is amended by
6 changing Sections 8-301, 13-301, 13-302, 13-501, 13-502,
7 13-514, 13-515, and 13-902 as follows:

8 (220 ILCS 5/8-301) (from Ch. 111 2/3, par. 8-301)

9 Sec. 8-301. Service standards. The Commission shall
10 have power to ascertain, determine and fix for each kind of
11 public utility, except for telecommunications carriers
12 providing only competitive services, suitable and convenient
13 standard commercial units of service, product or commodity,
14 which units shall be lawful units for the purposes of this
15 Act; to ascertain, determine and fix adequate and serviceable
16 standards for the measurements of quantity, quality,
17 pressure, initial voltage or other condition pertaining to
18 the performing of its service or to the furnishing of its
19 product or commodity by any public utility, and to prescribe
20 reasonable regulations for examining, measuring and testing
21 such service, product or commodity, and to establish
22 reasonable rules, regulations, specifications and standards
23 to secure the accuracy of all meters and appliances for
24 examining, measuring or testing such service, product or
25 commodity. The Commission may purchase such materials,
26 apparatus and standard measuring instruments as it deems
27 necessary to carry out the provisions of this Section.

28 The Commission shall provide for the inspection of the
29 manner in which every public utility conforms to the
30 reasonable regulations prescribed by the Commission for
31 examining, measuring and testing its service, product or

1 commodity, and the Commission may supplement such inspections
2 by examining, measuring and testing the service, product or
3 commodity of any public utility. Any consumer or user may
4 have tested any appliance for examining, measuring or testing
5 any such service, product or commodity upon payment of the
6 fees fixed by the Commission. The Commission shall declare
7 and establish reasonable fees to be paid for examining and
8 testing such appliances on the request of consumers or users,
9 the fee to be paid by the consumer or user at the time of his
10 request, but to be repaid to the consumer or user by the
11 public utility if the measuring appliance be found
12 unreasonably defective or incorrect to the disadvantage of
13 the consumer or user.

14 The Commission, its officers, agents, experts or
15 inspectors and employees shall have power to enter upon any
16 premises occupied by any public utility for the purpose of
17 making the examinations and tests provided in the Act, and
18 set up and use on such premises, any apparatus and appliances
19 and occupy reasonable space therefor.

20 All fees collected by the Commission under this Section
21 shall be paid promptly after the receipt of the same,
22 accompanied by a detailed statement of the same, into the
23 Public Utility Fund in the State treasury.

24 (Source: P.A. 84-617.)

25 (220 ILCS 5/13-301) (from Ch. 111 2/3, par. 13-301)

26 (Section scheduled to be repealed on July 1, 2001)

27 Sec. 13-301. Commission duties. Consistent with the
28 findings and policy established in paragraph (a) of Section
29 13-102 and paragraph (a) of Section 13-103, and in order to
30 ensure the attainment of such policies, the Commission shall:

31 (a) participate in all federal programs intended to
32 preserve or extend universal telecommunications service,
33 unless such programs would place cost burdens on Illinois

1 customers of telecommunications services in excess of the
2 benefits they would receive through participation, provided,
3 however, the Commission shall not approve or permit the
4 imposition of any surcharge or other fee designed to
5 subsidize or provide a waiver for subscriber line charges;
6 and shall report on such programs together with an assessment
7 of their adequacy and the advisability of participating
8 therein in its annual report to the General Assembly, or more
9 often as necessary;

10 (b) establish a program to monitor the level of
11 telecommunications subscriber connection within each exchange
12 in Illinois, and shall report the results of such monitoring
13 and any actions it has taken or recommends be taken to
14 maintain and increase such levels in its annual report to the
15 General Assembly, or more often if necessary;

16 (c) order all telecommunications carriers offering or
17 providing local exchange telecommunications service to
18 propose low-cost or budget service tariffs and any other rate
19 design or pricing mechanisms designed to facilitate customer
20 access to such telecommunications service, and shall after
21 notice and hearing, implement any such proposals which it
22 finds likely to achieve such purpose;

23 (d) investigate the necessity of and, if appropriate,
24 establish a universal service support fund from which local
25 exchange telecommunications carriers who pursuant to the
26 Twenty-Seventh Interim Order of the Commission in Docket No.
27 83-0142 or the orders of the Commission in Docket No. 97-0621
28 and Docket No. 98-0679 received funding and whose economic
29 costs of providing services for which universal service
30 support may be made available exceed the affordable rate
31 established by the Commission for such services may be
32 eligible to receive support, less any federal universal
33 service support received for the same or similar costs of
34 providing the supported services; provided, however, that if

1 a universal service support fund is established, the
2 Commission shall require that all costs of the fund be
3 recovered from all local exchange and interexchange
4 telecommunications carriers certificated in Illinois on a
5 competitively neutral and nondiscriminatory basis. In
6 establishing any such universal service support fund, the
7 Commission shall, in addition to the determination of costs
8 for supported services, consider and make findings pursuant
9 to paragraphs (1), (2), and (4) of item (e) of this Section.
10 Proxy cost, as determined by the Commission, may be used for
11 this purpose. In determining cost recovery for any universal
12 service support fund, the Commission shall not permit
13 recovery of such costs from another certificated carrier for
14 any service purchased and used solely as an input to a
15 service provided to such certificated carrier's retail
16 customers; and

17 (e) investigate the necessity of and, if appropriate,
18 establish a universal service support fund in addition to any
19 fund that may be established pursuant to item (d) of this
20 Section; provided, however, that if a telecommunications
21 carrier receives universal service support pursuant to item
22 (d) of this Section, that telecommunications carrier shall
23 not receive universal service support pursuant to this item.
24 Recipients of any universal service support funding created
25 by this item shall be "eligible" telecommunications carriers,
26 as designated by the Commission in accordance with 47 U.S.C.
27 214(e)(2). Eligible telecommunications carriers providing
28 local exchange telecommunications service may be eligible to
29 receive support for such services, less any federal universal
30 service support received for the same or similar costs of
31 providing the supported services. If a fund is established,
32 the Commission shall require that the costs of such fund be
33 recovered from all telecommunications carriers, with the
34 exception of wireless carriers who are providers of two-way

1 cellular telecommunications service and who have not been
2 designated as eligible telecommunications carriers, on a
3 competitively neutral and non-discriminatory basis. In any
4 order creating a fund pursuant to this item, the Commission,
5 after notice and hearing, shall:

6 (1) Define the group of services to be declared
7 "supported telecommunications services" that constitute
8 "universal service". This group of services shall, at a
9 minimum, include those services as defined by the Federal
10 Communications Commission and as from time to time
11 amended. In addition, the Commission shall consider the
12 range of services currently offered by telecommunications
13 carriers offering local exchange telecommunications
14 service, the existing rate structures for the supported
15 telecommunications services, and the telecommunications
16 needs of Illinois consumers in determining the supported
17 telecommunications services. The Commission shall, from
18 time to time or upon request, review and, if appropriate,
19 revise the group of Illinois supported telecommunications
20 services and the terms of the fund to reflect changes or
21 enhancements in telecommunications needs, technologies,
22 and available services.

23 (2) Identify all implicit subsidies contained in
24 rates or charges of incumbent local exchange carriers,
25 including all subsidies in interexchange access charges,
26 and determine how such subsidies can be made explicit by
27 the creation of the fund.

28 (3) Identify the incumbent local exchange carriers'
29 economic costs of providing the supported
30 telecommunications services.

31 (4) Establish an affordable price for the supported
32 telecommunications services for the respective incumbent
33 local exchange carrier. The affordable price shall be no
34 less than the rates in effect at the time the Commission

1 creates a fund pursuant to this item. The Commission may
2 establish and utilize indices or models for updating the
3 affordable price for supported telecommunications
4 services.

5 (5) Identify the telecommunications carriers from
6 whom the costs of the fund shall be recovered and the
7 mechanism to be used to determine and establish a
8 competitively neutral and non-discriminatory funding
9 basis. From time to time, or upon request, the
10 Commission shall consider whether, based upon changes in
11 technology or other factors, additional
12 telecommunications providers should contribute to the
13 fund. The Commission shall establish the basis upon
14 which telecommunications carriers contributing to the
15 fund shall recover contributions on a competitively
16 neutral and non-discriminatory basis. In determining
17 cost recovery for any universal support fund, the
18 Commission shall not permit recovery of such costs from
19 another certificated carrier for any service purchased
20 and used solely as an input to a service provided to such
21 certificated carriers' retail customers.

22 (6) Approve a plan for the administration and
23 operation of the fund by a neutral third party consistent
24 with the requirements of this item.

25 No fund shall be created pursuant to this item until
26 existing implicit subsidies, including, but not limited to,
27 those subsidies contained in interexchange access charges,
28 have been identified and eliminated through revisions to
29 rates or charges. Prior to May 1, 2000, such revisions to
30 rates or charges to eliminate implicit subsidies shall occur
31 contemporaneously with any funding established pursuant to
32 this item. However, if the Commission does not establish a
33 universal service support fund by May 1, 2000, the Commission
34 shall not be prevented from entering an order or taking other

1 actions to reduce or eliminate existing subsidies as well as
2 considering the effect of such reduction or elimination on
3 local exchange carriers.

4 Any-telecommunications-carrier-providing--local--exchange
5 telecommunications-service-which-offers-to-its-local-exchange
6 customers---a---choice---of---two---or---more---local--exchange
7 telecommunications-service-offerings-shall--provide,--to--any
8 such--customer--requesting--it,--once-a-year-without-charge,--a
9 report-describing--which--local--exchange--telecommunications
10 service--offering--would--result--in-the-lowest-bill-for-such
11 customer's-local-exchange-service,--based-on--such--customer's
12 calling--pattern--and--usage--for--the-previous-6-months,--At
13 least-once-a-year,--each-such-carrier-shall-provide--a--notice
14 to--each--of--its--local--exchange-telecommunications-service
15 customers-describing-the-availability-of-this-report-and--the
16 specific--procedures-by-which-customers-may-receive-it.--Such
17 report--shall--only--be--available--to--current--and--future
18 customers--who--have-received-at-least-6-months-of-continuous
19 local-exchange-service-from-such-carrier.

20 (Source: P.A. 91-636, eff. 8-20-99.)

21 (220 ILCS 5/13-302) (from Ch. 111 2/3, par. 13-302)

22 (Section scheduled to be repealed on July 1, 2001)

23 Sec. 13-302. Local measured service calling plans.

24 (a) No telecommunications carrier providing
25 non-competitive services shall implement a local measured
26 service calling plan which does not include one of the
27 following elements:

28 (1) the residential customer has the option of a
29 flat rate local calling service under which local calls
30 are not charged for frequency or duration; or

31 (2) residential calls to points within an untimed
32 calling zone approved by the Commission are not charged
33 for duration; or

1 (3) a low income residential Universal Service
2 Assistance Program, which meets criteria set forth by the
3 Commission, is available.

4 (b) In formulating the criteria for the low income
5 residential Universal Service Assistance Program referred to
6 in paragraph (3) of Subsection (a), the Commission shall
7 consider the desirability of various alternatives, including
8 a reduction of the access line charge or connection charge
9 for eligible customers.

10 (c) For local measured service plans implemented prior
11 to the effective date of this amendatory Act of 1987 which do
12 not contain one of the elements specified in paragraph (1) or
13 (2) of subsection (a) of this Section, the Commission shall
14 order the telecommunications carrier having such a plan to
15 include one of the elements specified in paragraph (1) or (2)
16 of subsection (a) of this Section by January 1, 1989.

17 (Source: P.A. 85-1286.)

18 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

19 (Section scheduled to be repealed on July 1, 2001)

20 Sec. 13-501. Tariff filing. No telecommunications
21 carrier shall offer or provide telecommunications service
22 unless and until a tariff is filed with the Commission which
23 describes the nature of the service, applicable rates and
24 other charges, terms and conditions of service, and the
25 exchange, exchanges or other geographical area or areas in
26 which the service shall be offered or provided. The
27 Commission may prescribe the form of such tariff and any
28 additional data or information which shall be included
29 therein. Telecommunications carriers must file tariffs for
30 all telecommunication services provided including unbundled
31 network elements provided pursuant to the federal
32 Telecommunications Act of 1996 and the Commission's authority
33 to require additional unbundling under Section 13-505.6.

1 Telecommunications carriers may purchase unbundled network
2 elements under a telecommunications utility tariff, an
3 interconnection agreement, or both.

4 (Source: P.A. 84-1063.)

5 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

6 (Section scheduled to be repealed on July 1, 2001)

7 Sec. 13-502. Classification of services.

8 (a) All telecommunications services offered or provided
9 under tariff by telecommunications carriers shall be
10 classified as either competitive or noncompetitive. A
11 telecommunications carrier may offer or provide either
12 competitive or noncompetitive telecommunications services, or
13 both, subject to proper certification and other applicable
14 provisions of this Article. Any tariff filed with the
15 Commission as required by Section 13-501 shall indicate
16 whether the service to be offered or provided is competitive
17 or noncompetitive.

18 (b) A service shall be classified as competitive only
19 if, and only to the extent that, for some identifiable class
20 or group of customers in an exchange, group of exchanges, or
21 some other clearly defined geographical area, such service,
22 or its functional equivalent, or a substitute service, is
23 reasonably available from more than one provider, whether or
24 not any such provider is a telecommunications carrier subject
25 to regulation under this Act. All telecommunications services
26 not properly classified as competitive shall be classified as
27 noncompetitive. The Commission shall have the power to
28 investigate the propriety of any classification of a
29 telecommunications service on its own motion and shall
30 investigate upon complaint. In any hearing or investigation,
31 the burden of proof as to the proper classification of any
32 service shall rest upon the telecommunications carrier
33 providing the service. After notice and hearing, the

1 Commission shall order the proper classification of any
2 service in whole or in part. The Commission shall make its
3 determination and issue its final order no later than 180
4 days from the date such hearing or investigation is
5 initiated. If the Commission enters into a hearing upon
6 complaint and if the Commission fails to issue an order
7 within that period, the complaint shall be deemed granted
8 unless the Commission, the complainant, and the
9 telecommunications carrier providing the service agree to
10 extend the time period.

11 The factors that the Commission must consider in
12 determining whether a service is a competitive
13 telecommunications service are:

14 (1) the number and size of telecommunications
15 carriers or other persons providing the same, equivalent,
16 or substitutable service in the relevant market;

17 (2) the extent to which the same, equivalent, or
18 substitute service is available in the relevant market;

19 (3) the ability of customers in the relevant market
20 to obtain the same, equivalent, or substitutable services
21 at comparable rates, terms, and conditions;

22 (4) the ability of telecommunications carriers or
23 other persons to make the same, equivalent, or
24 substitutable service readily available in the relevant
25 market at comparable rates, terms, and conditions;

26 (5) the relevant market power of each
27 telecommunications carrier or other person providing the
28 same, equivalent, or substitutable service in the
29 relevant market and any apparent trends in how the market
30 power of each telecommunications carrier may change in
31 the future;

32 (6) any affiliation of any telecommunications
33 carrier providing the service in the relevant market
34 which may affect competition; and

1 (7) the existence of any significant barrier to the
2 entry or exit of a provider of the service in the
3 relevant market.

4 (c) No tariff classifying a new telecommunications
5 service as competitive or reclassifying a previously
6 noncompetitive telecommunications service as competitive,
7 which is filed by a telecommunications carrier which also
8 offers or provides noncompetitive telecommunications service,
9 shall be effective unless and until such telecommunications
10 carrier offering or providing, or seeking to offer or
11 provide, such proposed competitive service prepares and files
12 a study of the long-run service incremental cost underlying
13 such service and demonstrates that the tariffed rates and
14 charges for the service and any relevant group of services
15 that includes the proposed competitive service and for which
16 resources are used in common solely by that group of services
17 are not less than the long-run service incremental cost of
18 providing the service and each relevant group of services.
19 Such study shall be given proprietary treatment by the
20 Commission at the request of such carrier if any other
21 provider of the competitive service, its functional
22 equivalent, or a substitute service in the geographical area
23 described by the proposed tariff has not filed, or has not
24 been required to file, such a study.

25 (d) In the event any telecommunications service has been
26 classified and filed as competitive by the telecommunications
27 carrier, and has been offered or provided on such basis, and
28 the Commission subsequently determines after investigation
29 that such classification improperly included services which
30 were in fact noncompetitive, the Commission shall have the
31 power to determine and order refunds to customers for any
32 overcharges which may have resulted from the improper
33 classification, or to order such other remedies provided to
34 it under this Act, or to seek an appropriate remedy or relief

1 in a court of competent jurisdiction.

2 (e) If no hearing or investigation regarding the
3 propriety of a competitive classification of a
4 telecommunications service is initiated within 180 days after
5 a telecommunications carrier files a tariff listing such
6 telecommunications service as competitive, no refunds to
7 customers for any overcharges which may result from an
8 improper classification shall be ordered for the period from
9 the time the telecommunications carrier filed such tariff
10 listing the service as competitive up to the time an
11 investigation of the service classification is initiated by
12 the Commission's own motion or the filing of a complaint.
13 Where a hearing or an investigation regarding the propriety
14 of a telecommunications service classification as competitive
15 is initiated after 180 days from the filing of the tariff,
16 the period subject to refund for improper classification
17 shall begin on the date such investigation or hearing is
18 initiated by the filing of a Commission motion or a
19 complaint.

20 (Source: P.A. 90-185, eff. 7-23-97.)

21 (220 ILCS 5/13-514)

22 (Section scheduled to be repealed on July 1, 2001)

23 Sec. 13-514. Prohibited actions of telecommunications
24 carriers. A telecommunications carrier shall not knowingly
25 impede the development of competition in any
26 telecommunications service market. The following prohibited
27 actions are considered per se impediments to the development
28 of competition; however, the Commission is not limited in any
29 manner to these enumerated impediments and may consider other
30 actions which impede competition to be prohibited:

31 (1) unreasonably refusing or delaying interconnections
32 or providing inferior connections to another
33 telecommunications carrier;

1 (2) unreasonably impairing the speed, quality, or
2 efficiency of services used by another telecommunications
3 carrier;

4 (3) unreasonably denying a request of another provider
5 for information regarding the technical design and features,
6 geographic coverage, information necessary for the design of
7 equipment, and traffic capabilities of the local exchange
8 network except for proprietary information unless such
9 information is subject to a proprietary agreement or
10 protective order;

11 (4) unreasonably delaying access in connecting another
12 telecommunications carrier to the local exchange network
13 whose product or service requires novel or specialized access
14 requirements;

15 (5) unreasonably refusing or delaying access by any
16 person to another telecommunications carrier;

17 (6) unreasonably acting or failing to act in a manner
18 that has a substantial adverse effect on the ability of
19 another telecommunications carrier to provide service to its
20 customers;

21 (7) unreasonably failing to offer services to customers
22 in a local exchange, where a telecommunications carrier is
23 certificated to provide service and has entered into an
24 interconnection agreement for the provision of local exchange
25 telecommunications services, with the intent to delay or
26 impede the ability of the incumbent local exchange
27 telecommunications carrier to provide inter-LATA
28 telecommunications services; and

29 (8) violating the terms of or unreasonably delaying
30 implementation of an interconnection agreement entered into
31 pursuant to Section 252 of the federal Telecommunications Act
32 of 1996 in a manner that unreasonably delays or impedes the
33 availability of telecommunications services to consumers;
34 and-

1 (9) refusing to provide combinations of unbundled
 2 network elements to competitive local exchange carriers
 3 including combinations of unbundled network elements to new
 4 customers and customers obtaining additional lines.

5 (Source: P.A. 90-185, eff. 7-23-97.)

6 (220 ILCS 5/13-515)

7 (Section scheduled to be repealed on July 1, 2001)

8 Sec. 13-515. Enforcement.

9 (a) The following expedited procedures shall be used to
 10 enforce the provisions of Section 13-514 of this Act ~~except~~
 11 ~~as--provided-in-subsection-(b)~~. However, the Commission, the
 12 complainant, and the respondent may mutually agree to adjust
 13 the procedures established in this Section. ~~If--the~~
 14 ~~Commission-determines, pursuant-to-subsection-(b), that--the~~
 15 ~~procedural--provisions--of--this--Section--do--not--apply, the~~
 16 ~~complaint-shall-continue-pursuant-to--the--general--complaint~~
 17 ~~provisions-of-Article-X.~~

18 (b) (Blank) ~~The--provisions--of--this-Section-shall-not~~
 19 ~~apply-to-an-allegation-of-a-violation-of-item-(8)-of--Section~~
 20 ~~13-514--by--a-Bell-operating-company, as-defined-in-Section-3~~
 21 ~~of-the-federal-Telecommunications-Act--of--1996,--unless--and~~
 22 ~~until--such-company-or-its-affiliate-is-authorized-to-provide~~
 23 ~~inter-LATA-services--under--Section--271(d)--of--the--federal~~
 24 ~~Telecommunications--Act--of--1996;--provided, however, that-a~~
 25 ~~complaint-setting-forth-a-separate-independent--basis--for--a~~
 26 ~~violation--of--Section--13-514-may-proceed-under-this-Section~~
 27 ~~notwithstanding-that-the-alleged-acts-or-omissions--may--also~~
 28 ~~constitute-a-violation-of-item-(8)-of-Section-13-514.~~

29 (c) No complaint may be filed under this Section until
 30 the complainant has first notified the respondent of the
 31 alleged violation and offered the respondent 48 hours to
 32 correct the situation. Provision of notice and the
 33 opportunity to correct the situation creates a rebuttable

1 presumption of knowledge under Section 13-514.

2 (d) A telecommunications carrier may file a complaint
3 with the Commission alleging a violation of Section 13-514 in
4 accordance with this subsection:

5 (1) The complaint shall be filed with the Chief
6 Clerk of the Commission and shall be served in hand upon
7 the respondent, the executive director, and the general
8 counsel of the Commission at the time of the filing.

9 (2) A complaint filed under this subsection shall
10 include a statement that the requirements of subsection
11 (c) have been fulfilled and that the respondent did not
12 correct the situation as requested.

13 (3) Reasonable discovery specific to the issue of
14 the complaint may commence upon filing of the complaint.
15 Requests for discovery must be served in hand and
16 responses to discovery must be provided in hand to the
17 requester within 14 days after a request for discovery is
18 made.

19 (4) An answer and any other responsive pleading to
20 the complaint shall be filed with the Commission and
21 served in hand at the same time upon the complainant, the
22 executive director, and the general counsel of the
23 Commission within 7 days after the date on which the
24 complaint is filed.

25 (5) If the answer or responsive pleading raises the
26 issue that the complaint violates subsection (i) of this
27 Section, the complainant may file a reply to such
28 allegation within 3 days after actual service of such
29 answer or responsive pleading. Within 4 days after the
30 time for filing a reply has expired, the hearing officer
31 or arbitrator shall either issue a written decision
32 dismissing the complaint as frivolous in violation of
33 subsection (i) of this Section including the reasons for
34 such disposition or shall issue an order directing that

1 the complaint shall proceed.

2 (6) A pre-hearing conference shall be held within
3 14 days after the date on which the complaint is filed.

4 (7) The hearing shall commence within 30 days of
5 the date on which the complaint is filed. The hearing
6 may be conducted by a hearing examiner or by an
7 arbitrator. Parties and the Commission staff shall be
8 entitled to present evidence and legal argument in oral
9 or written form as deemed appropriate by the hearing
10 examiner or arbitrator. The hearing examiner or
11 arbitrator shall issue a written decision within 60 days
12 after the date on which the complaint is filed. The
13 decision shall include reasons for the disposition of the
14 complaint and, if a violation of Section 13-514 is found,
15 directions and a deadline for correction of the
16 violation.

17 (8) Any party may file a petition requesting the
18 Commission to review the decision of the hearing examiner
19 or arbitrator within 5 days of such decision. Any party
20 may file a response to a petition for review within 3
21 business days after actual service of the petition.
22 After the time for filing of the petition for review, but
23 no later than 15 days after the decision of the hearing
24 examiner or arbitrator, the Commission shall decide to
25 adopt the decision of the hearing examiner or arbitrator
26 or shall issue its own final order.

27 (e) If the alleged violation has a substantial adverse
28 effect on the ability of the complainant to provide service
29 to customers, the complainant may include in its complaint a
30 request for an order for emergency relief. The Commission,
31 acting through its designated hearing examiner or arbitrator,
32 shall act upon such a request within 2 business days of the
33 filing of the complaint. An order for emergency relief may
34 be granted, without an evidentiary hearing, upon a verified

1 factual showing that the party seeking relief will likely
2 succeed on the merits, that the party will suffer irreparable
3 harm in its ability to serve customers if emergency relief is
4 not granted, and that the order is in the public interest.
5 An order for emergency relief shall include a finding that
6 the requirements of this subsection have been fulfilled and
7 shall specify the directives that must be fulfilled by the
8 respondent and deadlines for meeting those directives. The
9 decision of the hearing examiner or arbitrator to grant or
10 deny emergency relief shall be considered an order of the
11 Commission unless the Commission enters its own order within
12 2 calendar days of the decision of the hearing examiner or
13 arbitrator. The order for emergency relief may require the
14 responding party to act or refrain from acting so as to
15 protect the provision of competitive service offerings to
16 customers. Any action required by an emergency relief order
17 must be technically feasible and economically reasonable and
18 the respondent must be given a reasonable period of time to
19 comply with the order.

20 (f) The Commission is authorized to obtain outside
21 resources including, but not limited to, arbitrators and
22 consultants for the purposes of the hearings authorized by
23 this Section. Any arbitrator or consultant obtained by the
24 Commission shall be approved by both parties to the hearing.
25 The cost of such outside resources including, but not limited
26 to, arbitrators and consultants shall be borne by the
27 parties. The Commission shall review the bill for
28 reasonableness and assess the parties for reasonable costs
29 dividing the costs according to the resolution of the
30 complaint brought under this Section. Such costs shall be
31 paid by the parties directly to the arbitrators, consultants,
32 and other providers of outside resources within 60 days after
33 receiving notice of the assessments from the Commission.
34 Interest at the statutory rate shall accrue after expiration

1 of the 60-day period. The Commission, arbitrators,
2 consultants, or other providers of outside resources may
3 apply to a court of competent jurisdiction for an order
4 requiring payment.

5 (g) The Commission shall assess the parties under this
6 subsection for all of the Commission's costs of investigation
7 and conduct of the proceedings brought under this Section
8 including, but not limited to, the prorated salaries of
9 staff, attorneys, hearing examiners, and support personnel
10 and including any travel and per diem, directly attributable
11 to the complaint brought pursuant to this Section, but
12 excluding those costs provided for in subsection (f),
13 dividing the costs according to the resolution of the
14 complaint brought under this Section. All assessments made
15 under this subsection shall be paid into the Public Utility
16 Fund within 60 days after receiving notice of the assessments
17 from the Commission. Interest at the statutory rate shall
18 accrue after the expiration of the 60 day period. The
19 Commission is authorized to apply to a court of competent
20 jurisdiction for an order requiring payment.

21 (h) If the Commission determines that there is an
22 imminent threat to competition or to the public interest, the
23 Commission may, notwithstanding any other provision of this
24 Act, seek temporary, preliminary, or permanent injunctive
25 relief from a court of competent jurisdiction either prior to
26 or after the hearing.

27 (i) A party shall not bring or defend a proceeding
28 brought under this Section or assert or controvert an issue
29 in a proceeding brought under this Section, unless there is a
30 non-frivolous basis for doing so. By presenting a pleading,
31 written motion, or other paper in complaint or defense of the
32 actions or inaction of a party under this Section, a party is
33 certifying to the Commission that to the best of that party's
34 knowledge, information, and belief, formed after a reasonable

1 inquiry of the subject matter of the complaint or defense,
2 that the complaint or defense is well grounded in law and
3 fact, and under the circumstances:

4 (1) it is not being presented to harass the other
5 party, cause unnecessary delay in the provision of
6 competitive telecommunications services to consumers, or
7 create needless increases in the cost of litigation; and

8 (2) the allegations and other factual contentions
9 have evidentiary support or, if specifically so
10 identified, are likely to have evidentiary support after
11 reasonable opportunity for further investigation or
12 discovery as defined herein.

13 (j) If, after notice and a reasonable opportunity to
14 respond, the Commission determines that subsection (i) has
15 been violated, the Commission shall impose appropriate
16 sanctions upon the party or parties that have violated
17 subsection (i) or are responsible for the violation. The
18 sanctions shall be not more than \$7,500, plus the amount of
19 expenses accrued by the Commission for conducting the
20 hearing. Payment of sanctions imposed under this subsection
21 shall be made to the Common School Fund within 30 days of
22 imposition of such sanctions.

23 (k) An appeal of a Commission Order made pursuant to
24 this Section shall not effectuate a stay of the Order unless
25 a court of competent jurisdiction specifically finds that the
26 party seeking the stay will likely succeed on the merits,
27 that the party will suffer irreparable harm without the stay,
28 and that the stay is in the public interest.

29 (l) The Commission has the authority to establish
30 additional expedited procedures for complaints or other
31 actions affecting competition in the telecommunications
32 markets that are not brought to enforce Section 13-514.
33 Examples of disputes for which the Commission can establish
34 expedited procedures include, but are not limited to, the

1 following:

2 (1) collocation space disputes; and

3 (2) adoption of interconnection and tariff terms
4 and conditions into an interconnection agreement under
5 Section 252 of the Federal Telecommunications Act of
6 1996.

7 (Source: P.A. 90-185, eff. 7-23-97; 90-574, eff. 3-20-98.)

8 (220 ILCS 5/13-902)

9 (Section scheduled to be repealed on July 1, 2001)

10 Sec. 13-902. Rules for verification of a subscriber's
11 change in telecommunications carrier or addition to a
12 subscriber's service.

13 (a) As used in this Section, "subscriber" means a
14 telecommunications carrier's retail business customer served
15 by not more than 20 lines or a retail residential customer,
16 and "telecommunications carrier" has the meaning given in
17 Section 13-202 of the Public Utilities Act, except that
18 "telecommunications carrier" does not include a provider of
19 commercial mobile radio services (as defined by 47 U.S.C.
20 332(d)(1)).

21 (b) A subscriber's presubscription of a primary exchange
22 or interexchange telecommunications carrier may not be
23 switched to another telecommunications carrier without the
24 subscriber's authorization.

25 (c) A telecommunications carrier shall not effectuate a
26 change to a subscriber's telecommunications services by
27 providing an additional telecommunications service that
28 results in an additional monthly charge to the subscriber
29 (herein referred to as an "additional telecommunications
30 service") without following the subscriber notification
31 procedures set forth in this Section. An "additional
32 telecommunications service" does not include making available
33 any additional telecommunications services on a subscriber's

1 line when the subscriber activates and pays for the services
2 on a per use basis.

3 (d) It is the responsibility of the company or carrier
4 requesting a change in a subscriber's telecommunications
5 carrier to obtain the subscriber's authorization for the
6 change whenever the company or carrier acts as a subscriber's
7 agent with respect to the change.

8 (e) A company or telecommunications carrier submitting a
9 change in a subscriber's primary exchange or interexchange
10 telecommunications carrier as described in subsection (d)
11 shall be solely responsible for providing written notice of
12 the change to the subscriber in accordance with this Section,
13 or for obtaining verification of the subscriber's assent to
14 the change in accordance with this Section. In addition, a
15 telecommunications carrier that provides any additional
16 telecommunications service to a subscriber shall be solely
17 responsible for providing written notice of the additional
18 telecommunications service to the subscriber in accordance
19 with this Section, or for obtaining verification of the
20 subscriber's assent to the additional telecommunications
21 service in accordance with this Section.

22 (1) If the company or telecommunications carrier
23 elects to provide written notice in accordance with this
24 Section, the notice shall be provided as follows:

25 (A) A letter to the subscriber must be mailed
26 ~~using-first-class-mail~~, postage prepaid, no later
27 than 10 days after the telecommunications carrier
28 submitting the change in the subscriber's primary
29 exchange or interexchange telecommunications carrier
30 is on notice that the change has occurred or no
31 later than 10 days after initiation of an additional
32 telecommunications service has occurred.

33 (B) The letter must be a separate document
34 sent for the sole purpose of describing the changes

1 or additions authorized by the subscriber.

2 (C) The letter must be printed with 10 point
3 or larger type and contain clear and plain language
4 that confirms the details of a change in the
5 presubscribed telecommunications carrier or of the
6 addition of the telecommunications service and
7 provides the subscriber with a toll free number to
8 call should the subscriber wish to cancel the change
9 or make additional changes.

10 (2) If the company or telecommunications carrier
11 elects to obtain verification in accordance with this
12 Section, verification shall be obtained as follows:

13 (A) Verification shall be obtained by an
14 independent third-party that:

15 (i) operates from a facility physically
16 separate from that of the telecommunications
17 carrier or company seeking the change or
18 addition of service;

19 (ii) is not directly or indirectly
20 managed, controlled, directed, or owned wholly
21 or in part by the telecommunications carrier or
22 company seeking the change or addition of
23 telecommunications services;

24 (iii) does not derive commissions or
25 compensation based upon the number of sales,
26 changes, or additions confirmed; and

27 (iv) shall retain records of the
28 confirmation of sales or changes for 24 months.

29 (B) The third-party verification agent shall
30 state to the subscriber, and shall obtain the
31 subscriber's acknowledgement to, the following
32 disclosures:

33 (i) the consumer's name, address, and the
34 telephone numbers of all telephone lines that

1 will be changed or to which additional
2 telecommunications services will be added;

3 (ii) the names of the telecommunications
4 carrier or company that is replacing the
5 previous presubscribed telecommunications
6 carrier or adding a telecommunications service
7 to the subscriber's account and, where
8 applicable, the name of the carriers being
9 replaced;

10 (iii) in cases where verification is
11 sought for the subscriber's presubscribed
12 telecommunications carrier, that for each line
13 the subscriber can designate only one
14 presubscribed telecommunications carrier to
15 handle each of the subscriber's local, long
16 distance, or local toll service depending upon
17 which presubscribed telecommunications service
18 or services are being verified; and

19 (iv) the fact that a fee may be imposed
20 on the subscriber for the change of primary
21 exchange or interexchange telecommunications
22 carriers or that a monthly recurring fee may be
23 charged for the additional service, if that is
24 the case.

25 (C) The third-party verification agent shall
26 obtain verification no later than 17 3 days after
27 the carrier submitting a change in the subscriber's
28 primary exchange or interexchange telecommunications
29 carrier is on notice that the change has occurred or
30 no later than 17 3 days after initiation of an
31 additional telecommunications service has occurred.

32 (D) The telecommunications company or carrier
33 seeking to implement the change in service or
34 additional service may connect the subscriber to the

1 verification agent, provided that all of the
2 requirements for verification by a third party as
3 set forth in this Section are otherwise complied
4 with fully.

5 (3) The verification or notice requirements
6 described in this subsection shall apply to all changes
7 to a subscriber's presubscription of a primary exchange
8 or interexchange telecommunications carrier, whether the
9 change was initiated through an inbound call initiated by
10 the customer or outbound telemarketing. Where a
11 subscriber's telecommunications services are changed by
12 the provision of an additional telecommunications
13 service, the verification or notice requirements
14 described in this subsection shall apply if the change
15 was initiated through outbound telemarketing. Where a
16 subscriber's telecommunications services are changed by
17 the provision of an additional telecommunications service
18 and the change was initiated through inbound
19 telemarketing, the telecommunications carrier shall
20 comply with all rules or regulations promulgated by the
21 Federal Communications Commission.

22 (4) Verifications conducted or obtained in a manner
23 not in compliance with this Section or notice given in a
24 manner not in compliance with this Section shall be void
25 and without effect.

26 (f) The Commission shall promulgate any rules necessary
27 to ensure that the primary exchange or interexchange
28 telecommunications carrier of a subscriber is not changed to
29 another telecommunications carrier or that an additional
30 telecommunications service is not added without the
31 subscriber's authorization. The rules promulgated under this
32 Section shall comport with the rules, if any, promulgated by
33 the Attorney General pursuant to the Consumer Fraud and
34 Deceptive Business Practices Act and with any rules

1 promulgated by the Federal Communications Commission.

2 (g) Complaints may be filed with the Commission under
3 this Section by a subscriber whose primary exchange or
4 interexchange carrier has been changed to another
5 telecommunications carrier without authorization or who has
6 been provided an additional telecommunications service not
7 ordered by the subscriber, by a telecommunications carrier
8 that has been removed as a subscriber's primary exchange or
9 interexchange telecommunications carrier without
10 authorization, or by the Commission on its own motion. Upon
11 filing of the complaint, the parties may mutually agree to
12 submit the complaint to the Commission's established
13 mediation process. Remedies in the mediation process may
14 include, but shall not be limited to, the remedies set forth
15 in paragraphs (1) through (5) of this subsection. In its
16 discretion, the Commission may deny the availability of the
17 mediation process and submit the complaint to hearings. If
18 the complaint is not submitted to mediation or if no
19 agreement is reached during the mediation process, hearings
20 shall be held on the complaint pursuant to Article 10 of this
21 Act. If after notice and hearing, the Commission finds that
22 a telecommunications carrier has violated this Section or a
23 rule promulgated under this Section, the Commission may in
24 its discretion order any one or more of the following:

25 (1) In case of an unauthorized change in a
26 subscriber's primary exchange or interexchange
27 telecommunications carrier, require the violating
28 telecommunications carrier to refund to the subscriber
29 all fees and charges collected from the subscriber for
30 services up to the time the subscriber receives written
31 notice of the fact that the violating carrier is
32 providing telecommunications service to the subscriber.
33 For a carrier that elects to provide written notice of a
34 change in a subscriber's primary exchange or

1 interexchange carrier, notice consistent with paragraph
2 (1) of subsection (e) shall be deemed to be receipt of
3 notice by the subscriber for purposes of this paragraph.
4 For a carrier that elects to obtain verification of a
5 change in a subscriber's primary exchange or
6 interexchange carrier consistent with paragraph (2) of
7 subsection (e) of this Section, either the first
8 correspondence from the carrier that notifies the
9 customer of the change or the subscriber's first bill for
10 services, whichever is mailed first, shall be deemed to
11 be receipt of notice by the subscriber for purposes of
12 this paragraph. The Commission may order the remedial
13 action outlined in this subsection only to the extent
14 that the same remedial action is allowed pursuant to
15 rules or regulations promulgated by the Federal
16 Communications Commission.

17 (2) In case of an unauthorized change in the
18 primary exchange or interexchange telecommunications
19 carrier, require the violating telecommunications carrier
20 to refund to the subscriber charges collected in excess
21 of those that would have been charged by the subscriber's
22 chosen telecommunications carrier.

23 (3) In case of an unauthorized change in the
24 primary exchange or interexchange telecommunications
25 carrier, require the violating telecommunications carrier
26 to pay to the subscriber's chosen telecommunications
27 carrier the amount the chosen telecommunications carrier
28 would have collected for the telecommunications service.
29 The Commission is authorized to reduce this payment by
30 any amount already paid by the violating
31 telecommunications carrier to the subscriber's chosen
32 telecommunications carrier for those telecommunications
33 services.

34 (4) Require the violating telecommunications

1 carrier to pay a fine of up to \$1,000 into the Public
2 Utility Fund for each repeated and intentional violation
3 of this Section.

4 (5) In the case of an unauthorized additional
5 telecommunications service, require the violating carrier
6 to refund or cancel all charges for telecommunications
7 services or products provided without a subscriber's
8 authorization.

9 (6) Issue a cease and desist order.

10 (7) For a pattern of violation of this Section or
11 for intentionally violating a cease and desist order,
12 revoke the violating telecommunications carrier's
13 certificate of service authority.

14 (Source: P.A. 89-497, eff. 6-27-96; 90-610, eff. 7-1-98.)

15 Section 99. Effective date. This Act takes effect July
16 1, 2001.